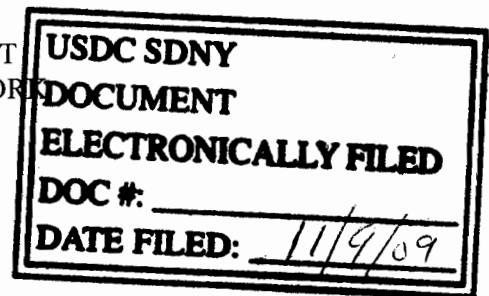


DLT #79

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

----- X  
 SECURITIES AND EXCHANGE )  
 COMMISSION, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 )  
 JOHN MICHAEL KELLY, STEVEN E. )  
 RINDNER, JOSEPH A. RIPP, and MARK )  
 WOVSANIKER, )  
 )  
 Defendants. )  
 ----- X

08 Civ. 4612 (SWK)  
 (ECF Case)

NOTICE OF MOTION TO  
COMPEL

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law and supporting exhibits annexed thereto, defendant Joseph A. Ripp, by his undersigned attorneys, hereby moves this Court, at the United States Courthouse, 500 Pearl Street, New York, New York, on a day and time to be set by this Court, for an order, pursuant to Rules 30(b)(6) and 37(a)(3)(B)(ii) of the Federal Rules of Civil Procedure and this Court's Order entered August 14, 2009, compelling plaintiff the Securities and Exchange Commission to designate a representative or representatives to testify on its behalf at a deposition upon oral examination under oath.

Pursuant to this Court's August 14 Order, any affidavits or answering memoranda shall be filed on or before September 4, 2009.

This motion (Docket # 79) is deemed withdrawn without prejudice to reinstatement in the event that the course of action discussed at today's conference does not resolve the matters raised in the motion.

SO ORDERED. 11/6/2009  
 GABRIEL W. [Signature]  
 UNITED STATES MAGISTRATE JUDGE